



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 13, 1996

Mr. Pete Wassdorf  
Deputy General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR96-0328

Dear Mr. Wassdorf:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38943.

The Office of the Governor received a request for the judicial appointment questionnaire for Harriet O'Neil. You contend that a portion of the requested information may be withheld from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to be protected from public disclosure under the common-law right of privacy as section 552.101 incorporates it, the information must meet the criteria set out in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The *Industrial Foundation* court stated that

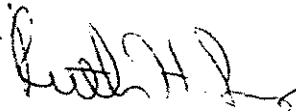
information . . . is excepted from mandatory disclosure under Section 3(a)(1) as information deemed confidential by law if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public.

540 S.W.2d at 685; Open Records Decision No. 142 (1976) at 4 (construing former V.T.C.S. art. 6252-17a, § 3(a)(1)).

We have reviewed the information submitted for our consideration. We agree that portions of the requested information contain information that is highly intimate and embarrassing and of no legitimate public interest. We have marked the information that must be withheld under section 552.101 of the Government Code as it incorporates common-law privacy. The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/LBC/ch

Ref: ID# 38943

Enclosures: Marked documents

cc: Mr. Jack Holland  
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(w/o enclosures)